IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of	§	
	§	
Walter L. Raines	§	Examiner: Lalita M. Hamilton
	§	
Apln. No. 10/628,819	§	
	§	Group Art Unit: 3624
Filed: 07/28/2003	§	
	§	
For: **RECEIPT PROCESSING**	§	Atty. Dkt.: Raines-003
SYSTEM AND METHOD	§	

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Commissioner of Patents
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APPEAL BRIEF

This is an appeal from the final rejection in the above designated case dated December 29, 2005, rejecting claims 1-12 and 15-21. This Brief is accompanied by the requisite fee set forth in §41.20(b)(2) and the fee for a one month extension of time under §1.136.

APPEAL BRIEF

Appellant Name:

    Walter L. Raines

US Application No.: 10/628,819

Filing Date: 07/28/2003

Title of the Invention:
    RECEIPT PROCESSING SYSTEM AND METHOD

Examiner's Name:
    Lalita M. Hamilton

Art Unit: 3624

Attorney Docket: Raines-003

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REAL PARTY IN INTEREST (§ 41.37(c)(1)(I))

The named inventor, Walter L. Raines, is the real party in interest.

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RELATED APPEALS AND INTERFERENCES (§ 41.37(c)(1)(ii))

None.

STATUS OF CLAIMS (§ 41.37(c)(1)(iii))

The status of the claims as set out in the Final Office Action of December 29, 2005 is as follows:

Allowed claims--none

Claims objected to-- none

Claims rejected-- 1-12 and 15-21

Claims withdrawn-- 22-24

Claims canceled-- 13-14.

Claims appealed – 1-12 and 15-21

STATUS OF AMENDMENTS (§ 41.37(c)(1)(iv))

All amendments have been entered.

The present status of the claims is the same as at the time of the Final Office Action as set out in the Appendix.

SUMMARY OF THE CLAIMED SUBJECT MATTER (§ 41.37(c)(1)(v))

Claims 1, 7, 12, and 16 are the independent claims involved in the appeal. There are no means plus function or step plus function claims as permitted under 35 U.S.C. 112(6) involved in the independent claims.

Independent Claim 1.

The preamble of independent claim 1 describes a method of processing credit card transactions. More specifically, the method concerns the chargeback problem that occurs when a customer questions a credit card purchase. p.2, line 16 - p. 3 line 8, p. 6, lines 6-12. The merchant must produce a copy of the signed receipt within a short time for review by the customer. If the merchant cannot present a copy of the actual signed receipt, then the sale is reversed or charged back. Many stores maintain an entire department to file and retrieve the credit card paper receipts. Other stores use non-paper digitizers to capture signatures along with POS (point of sale) equipment to capture the transaction data. However, the digitizers become worn and it is not certain that the captured signature is actually associated with the sale. The startup costs are high and requires maintaining existing paper receipt files through the required retention time period. p. 6, line 13- p. 8, line 10.

The first paragraph of the body of independent claim 1 requires producing paper receipts for credit card transactions with three main features, namely: (1) machine readable data comprising the credit card number, purchase amount, and the date of purchase and (2) separately located human readable text with the purchase amount and the date of purchase and (3) an

endorsement by the purchaser.

As discussed subsequently with claim 16, to produce item (1), there must be special programming for the printer to print this information into the machine readable data. p. 23, line 16- 20. Fig. 2, item 16.

The second paragraph in the body of independent claim 1 requires optically scanning the paper receipt to produce data that (1) comprises both an image file representation of the receipt including the endorsement and (2) recognizing the information stored in the machine readable data, namely the credit card number, amount/date of purchase. p.24, lines 10-16; p. 25, lines 3-9.

The last paragraph of claim 1 requires storing the electronic representation of the paper receipt utilizing the recognized machine-readable data. p. 23, line 17 - p 24, line 2; p. 25, lines 6-17; p. 28, lines 10-12. In other words, the recognized data from the machine read data is used to organize and index the electronic representation.

Independent Claim 7.

The preamble of independent claim 7 is the same as that of claim 1. The method concerns the chargeback problem that occurs when a customer questions a credit card purchase. p.2, line 16 - p. 3 line 8, p. 6, lines 6-12. The merchant must produce a copy of the signed receipt within a short time for review by the customer. If the merchant cannot present a copy of the actual signed receipt, then the sale is reversed or charged back. Many stores maintain an entire department to file and retrieve the credit card paper receipts. Other stores use non-paper digitizers to capture signatures along with POS (point of sale) equipment to capture the transaction data. However, the

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digitizers become worn and it is not certain that the captured signature is actually associated with the sale. The startup costs are high and requires maintaining existing paper receipt files through the required retention time period. p. 6, line 13- p. 8, line 10.

The first paragraph of the body of independent claim 7 requires producing receipts for credit card transactions that comprise an endorsement by the purchaser. p. 23, lines 14-15.

The second paragraph of the body of independent claim 7 requires producing an electronic copy from which a purchaser readable copy may be produced. p. 23, lines 8-11; p. 25, line 6.

The third paragraph of the body of independent claim 7 requires providing a web site accessible by any of a plurality of credit card purchasers from the respective credit card purchaser's computer wherein a viewable copy of the signed credit card paper receipt may be retrieved by a respective purchaser. FIG. 3; p. 26, line 9- p. 27 line 15.

Independent Claim 12.

The preamble of independent claim 12 is the same as that of claim 1. It describes a method of processing credit card transactions. The method concerns the chargeback problem that occurs when a customer questions a credit card purchase. p.2, line 16 - p. 3 line 8, p. 6, lines 6-12 The merchant must produce a copy of the signed receipt within a short time for review by the customer. If the merchant cannot present a copy of the actual signed receipt, then the sale is reversed or charged back. Many stores maintain an entire department to file and retrieve the credit card paper receipts. Other stores use non-paper digitizers to capture signatures along with POS (point of sale) equipment to capture the transaction data. However, the digitizers become

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worn and it is not certain that the captured signature is actually associated with the sale. The

startup costs are high and requires maintaining existing paper receipt files through the required

retention time period. p. 6, line 13- p. 8, line 10.

The first paragraph of the body of independent claim 12 requires storing an electronic

copy from which a purchaser readable copy may be produced. p. 23, lines 8-11; p. 25, line 6-18.

The second paragraph of the body of independent claim 12 requires providing a web site

accessible by any of a plurality of credit card purchasers from the respective credit card

purchaser's computer wherein a viewable copy of the signed credit card paper receipt may be

retrieved by a respective purchaser. FIG. 3; p. 26, line 9- p. 27 line 15.

Independent Claim 16.

The preamble of independent claim 16 is similar to that of claim 1. It describes a system

for processing chargeback procedures in credit card transactions. The system is used to quickly

and accurately provide proof of purchase information required when a customer questions a credit

card purchase. p.2, line 16 - p. 3 line 8, p. 6, lines 6-12. The merchant must produce a copy of

the signed receipt within a short time for review by the customer. If the merchant cannot present a

copy of the actual signed receipt, then the sale is reversed or charged back. Many stores maintain

an entire department to file and retrieve the credit card paper receipts. Other stores use non-paper

digitizers to capture signatures along with POS (point of sale) equipment to capture the transaction

data, wherein the digitizers become worn, and wherein it is not certain that the captured signature

is actually associated with the sale. p. 6, line 13- p. 8, line 10

The first paragraph of the body of independent claim 16 requires a printer and

programming for producing paper receipts for credit card transactions with three main features, as

follows: (1) machine readable data comprising the credit card number, purchase amount, and date

of purchase and (2) separately located human readable text with the amount/date of purchase and

(3) an endorsement by the purchaser. FIG. 2 shows the human readable text with the purchase

amount and date of purchase along with machine readable data, namely the bar code, item 16 of

FIG. 2. However, FIG. 2 does not show what information is included in bar code 16. To

produce item machine readable data, such as a bar code, with the credit card number, purchase

amount, and date of purchase, the printer must necessarily be programmed to produce this

information in the bar code or other machine readable data. p. 23, line 16- 20. Fig. 2, item 16.

The second paragraph in the body of independent claim 16 requires an optical scanner for

optically scanning the paper receipt to produce data that (1) comprises both a representation of

the receipt including the endorsement and (2) for recognizing the information stored in the

machine readable data to produce machine-read data, namely the credit card number, amount and

date of purchase. p.24, lines 10-16; p. 25, lines 3-9.

The third paragraph of claim 16 requires an electronic storage medium for storing the

electronic representation of the paper receipt. p. 25, lines 8-20.

The last paragraph of claim 16 requires one or more computers programmed for storing

and retrieving a selected electronic representation based on the machine-read data produced with

the optical scanner. p. 23, line 20-p 24, line 2; p. 25, lines 6-8; p. 25, lines 14-17; p. 28, line

10-12.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL (§ 41.37(c)(1)(vi))

1.   Claims 1, 5, 16, 18 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Ballard (6,032,137).

2.   Claims 2-4, 6-15, 17, and 19-20 are rejected under 35 U.S.C. 103(a) as being anticipated by Ballard in view of Cruse (2002/0010659).

ARGUMENT (§ 41.37(c)(1)(vii))

I.   Claims 1, 5, 16, 18 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by

Ballard (6,032,137).

Summary of Argument:

The citation relied upon by the Examiner in making the rejection states that the Ballard

dataglyphs "represent large amounts of info." However, this citation does not show anticipation

by Ballard because it does not show that the dataglyphs actually include the very specific

information required by claims 1 and 16. Appellant's claimed invention must have this very

specific information for indexing purposes, which is set forth by two different limitations in

claims 1 and 16. Appellant pointed out this error to the Examiner, but the Examiner continued to

maintain the rejection despite the fact that the citation quite plainly does not show anticipation.

To the Examiner, the mere statement that information of any type is included in the dataglyphs,

regardless of what it actually is, was enough to maintain the rejection. Because the Examiner

does not show that Ballard anticipates Appellant's claim language, a *prima facia* case of

anticipation was not established, and the decision should be reversed.

Had the Examiner read the Ballard patent more thoroughly, the Examiner might have

discovered that the dataglyphs provide formatting information used for what Ballard considers to

be a unique error correction scheme. Ballard does not teach that the dataglyphs contain the

specific information required by Appellant's claims, or any motivation to do so. Appellant's

system is not concerned about the formatting of the document, i.e., the location of snippets or

fields of information on a paper ticket.

The Examiner misunderstood the basic purpose of Ballard, which is to process many different types of documents. The Examiner decided that because Ballard shows a ticket with a dataglyph, that the dataglyph must necessarily include the specific required by the first limitations of Appellant's claims 1 and 16. However, Ballard's system is intended for use with a wide variety of documents wherein the dataglyphs are used to provide format information that can be used by human operators to more quickly locate and correct errors manually. Unlike Appellant's device, Ballard's system requires that the merchant retain paper receipts to correct the errors. Thus, Ballard does not solve the problem of high costs to retain, file, and retrieve the receipts in response to a chargeback inquiry. Ballard system is not the same as Appellant's system and respectfully would likely cost much more than presently used receipt filing systems if implemented for solving the problem of credit card chargebacks.

Finally, the last limitation of claims 1 and 16 requires using the very specific information found in the machine readable data for indexing the scanned receipt files. The Examiner makes no effort to show the last limitation is found in Ballard, and does not discuss the last limitation in the office action. Applicant had also pointed out this error to the Examiner, but the Examiner did not respond. For this reason alone, the decision should be reversed. There is no *prima facia* case of anticipation established when some of the claim elements are ignored. To support the rejection, the Examiner should have at least attempted to show that the information from Ballard's dataglyphs is used to index the receipts electronically. Instead, the Examiner simply does not mention the last limitation of claims 1 and 16 in the Office Action. In any case, Ballard does not disclose this.

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Accordingly, not only is the Examiner inaccurate concerning the first limitation, but the

Examiner simply has not discussed all elements of the claims. For both of these reasons, the

Examiner has failed to establish a *prima facia* case of anticipation. Clearly, the decision should

be reversed.

Claims 1

A. Ballard does not disclose the first limitation of Claim 1

Respectfully, the Examiner has not established a *prima facia* case under 35 U.S.C. 102(b)

because the essential elements required in the first limitation (or the last limitation) of claims 1 and

16 are not shown in Ballard.

On page 2 of the Examiner's Detailed Action of 12/29/05, the Examiner argues that

Ballard's dataglyph is machine readable data that represents "large amounts of info, including

information on the receipt." The Examiner cites Ballard Fig. 3B and col.5, line 64 to col. 6, line

28. The cited passage explains that a Xerox "dataglyph" (shown in Fig. 3B) can contain "large

amounts of information." However, Appellant's claimed invention does not require that the

machine readable data comprise "large amounts of info." Appellant's invention requires only a

small amount of very specific information that must be provided in the machine readable data,

namely the purchase price, date, and credit card number. (As discussed below, because Appellant's

device requires only a small amount of information, Appellant's invention works very well even

with the ubiquitous but low-resolution, low-cost point of sale impact printers that are incapable of

producing the high-resolution dataglyphs utilized by Ballard).

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The Examiner does not point to any specific portion of the cited passage that says that the

dataglyphs include the information required by claims 1 and 16, namely the credit card number,

amount of purchase and date of purchase. The Examiner simply states that Ballard shows this

specific information as a conclusory fact on p. 2, 3rd paragraph, and p. 4, 3rd paragraph. The

citation relied upon by the Examiner does not say this. Applicant questioned the Examiner on this

specific issue, but the Examiner maintained the rejection based on the same erroneous conclusion.

p. 4, 3rd paragraph. The Examiner again provided no basis for this conclusion other than the

above-quoted statement that the dataglyphs contain "large amounts of information." What the

Examiner does not understand, is that the statement "large amounts of information" does not

satisfy the claim language which lists very specific information. The Examiner erroneously

concludes that all information is necessarily identical. The Examiner has failed to establish a

prima facia case of anticipation for claims 1 and 16.

Establishing anticipation under 35 U.S.C. §102(b) requires that a single prior art reference

contain every element recited in the claim in as complete detail as is contained in the

claim. "The identical invention must be shown in as complete detail as is contained in the

claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920

(Fed. Cir 1989) See also M.P.E.P. (Manual of Patent Examining Procedure) § 2131.

Further, "[A]nticipation requires that ... the prior art reference must be enabling, thus

placing the alleged disclosed matter in the possession of the public." *Akzo n.v. v U.S. Int'l

Trade Commission*, 808 F.2d 1471, 1 USPQ 2d 1241, 1245 (Fed. Cir. 1986) (citing *In re

Brown*, 329 F.2d 1006, 1011, 141 USPQ 245, 249 (C.C.P.A. 1964). "There must be no

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difference between the claimed invention and the reference disclosure..." *Scripps Clinic &*

Research Foundation v. Genentech Inc., 927 F.2d 1565, 18 USPQ 2d 1001, 1010 (Fed Cir.

1991).

As discussed below, the Examiner does not attempt to show that Ballard teaches the

special programming required for a printer to print this information into the dataglyphs as

additionally required in the first limitation of claim 16.   The Examiner repeatedly ignores claim

limitations such as this limitation and the second limitation of claims 1 and 16 and instead states,

without support or discussion, that the claims are anticipated.

The Examiner fails to understand that Ballard's system does not operate the same as

Appellant's invention. Ballard's system is designed to collect information from many different

documents (Col. 1, lines 24-52). Ballard requires that the merchant retain a staff to maintain the

paper receipts in a filing system according to "batch numbers" to correct the errors that will be

generated by the Ballard system. (Col. 8, line 63- Col. 9, line 6) On the other hand, a basic

purpose of Appellant's device is to allow merchants to discard paper receipts, thereby greatly

reducing costs. The accuracy errors inherent in the Ballard system, which are admitted by Ballard

(Col. 9, line 2-6) would not only require additional staff for correcting errors caused by the

Ballard system, but also require that the merchant retain the paper receipts, with a filing method

for locating the receipts to correct the errors. However, if the massive number of receipts could be

filed so as to be "quickly relocated" (Col. 9, line 6) as proposed by Ballard over significant time

periods, then there would be no motivation for the system in the first place. With respect to the

problem of chargeback inquiries, Ballard in effect teaches replacing one paper receipt filing

system with another. On the other hand, Appellant's claimed invention results in elimination of

the need for the paper receipt filing system. Appellant's system is highly accurate, very reliable,

and may be implemented at a relatively low cost.

Although the Examiner relies heavily on the one citation in Ballard, the Examiner has not

thoroughly read even the relied upon citation. In the relied upon citation at Col. 6, lines 15-18,

Ballard clearly states that the dataglyphs include "error correction codes." Even without further

information, there is no basis to conclude that "error correction codes" are the same as specific

transaction data such as the specific details of a transaction from any specific ticket as claimed by

Appellant. Had the Examiner more thoroughly read the Ballard patent, the Examiner would have

discovered what is actually in the dataglyphs. Ballard subsequently describes in some detail the

"error correction" information referred to in the cited passage. The "error correction" information

is used by human operators who more "quickly" locate information for a particular type of

document in specific fields or snippets based on a "template", which can be provided in the large

amounts of information in the dataglyphs. See Col. 15, lines 37-65; Col. 20, line 56-67. As an

example, a dataglyph may contain the formatting for quickly determining location of a signature

on the receipt. Col 11, lines 7-9 .

The "error correction codes" are used by Ballard due to the admitted inaccuracy of the

Ballard system which requires human operators to edit information from documents scanned by

the Ballard device, as discussed subsequently by Ballard. The error codes are used for formatting

that tells the operators where particular information is printed to allow operators to "quickly

recognize and correct the error." See Col. 15, lines 35-65, and specifically Col 15, lines 48-58.

Ballard does not show the identical invention. Ballard does not operate in the same manner

as Appellant's design.   Ballard is not enabling of Appellant's invention.   Ballard does teach

machine-readable data and separately located human- readable text on the receipt wherein the

machine-readable data comprises credit card number, an amount of purchase, and a date of

purchase, and the human-readable text comprises the amount of purchase and the date of

purchase.   Establishing anticipation under 35 U.S.C. §102(b) requires that a single prior art

reference contain every element recited in the claim in as complete detail as is contained in the

claim.

Unequivocally, the cited passage from Ballard does not say that the machine-

readable data comprises the purchase price, credit card number, and date as required by

the first limitation of claims 1 and 16.   Therefore, the Examiner has not established a prima

facia case of anticipation under 35 U.S.C. §102(b).   The decision should be reversed.

B. Ballard does not disclose the last limitation of Claim 1 and claim 16.

The Examiner has made no attempt to locate the steps and/or features of the last

limitation in the last paragraph of claim 1 in Ballard.   Claim 1 and claim 16 require that the

machine readable data, i.e., the recognized data read from the Ballard dataglyphs, be the basis for

organizing the paper receipts for retrieval. In other words, the receipts should be retrievable

utilizing the credit card number, the amount of purchase, and the date of purchase that is obtained

from the machine readable data.

The Examiner has not shown this or attempted to show this. In any case, had the Examiner looked for this feature in the Ballard patent, it would have been discovered that this is not how Ballard works. Ballard does not obtain indexing information or information for organizing the Ballard data from the dataglyphs. In fact, the dataglyph may be missing or damaged in Ballard. (Col. 10, line 55- Col. 11, line 5). This is because the dataglyphs are only used for error correction, not indexing.

To summarize operation of Ballard, Ballard creates an image file that is later processed at a different location. As shown in Fig. 1, the Ballard system has three tiers of components, 200, 400, and 600. The components 200 are at location where scanning occurs. The components 400 are in a region and collect the information from each store. The component 600 collect the information from each region to do the processing. In other words, contrary to the claim language, the components 200 do the scanning, and the high processing speed component 600 processes and stores recognized information from the image of the document. Col. 4, line 67- Col. 5, line 15. Col. 14, lines 34-36.

In more detail, a Bit Image (BI) by scanning the receipts (Col. 5, lines 51-53) assuming a predetermined format (Col. 9, line 39 - Col. 10, line 18.) Note that to the extent that credit cards are used, Ballard simply uses the standard POS (point of sale) credit card reader equipment 212 to obtain the credit card number and other information. This information is readily obtained from the credit card, not the dataglyphs. (Col. 6, line 38-39). Therefore, except for the teachings of Appellant's invention, there is no apparent need for Ballard to place this information in the dataglyphs.

The POS (point of sale) equipment may also be used to obtain other information not pictured on the receipt. (Col. 10, lines 18-40). The credit card transaction is handled in the standard fashion using standard POS (point of sale) equipment (Col 9, lines 15-36). Accordingly, Ballard does not include or provide any reason to also include the information readily available from the POS (point of sale) equipment in the dataglyph. Accordingly, if the Examiner had attempted to find a step of placing the credit card number or other transaction information in the dataglyphs of Ballard, the Examiner would have failed.

Ballard compresses the bit image (BI) to produce a compressed bit image (CBI). Col. 8, line 1-7. Ballard encrypts the compressed bit image to produce an encrypted compressed bit image (ECBI). This image is tagged with a time stamp and merchant ID to form a Tagged Encrypted Compressed Bitmap Image (TECBI) (Col. 8, line 21-28). More specifically, the tag includes the information in Col. 10, line 5 - Col. 11, line 6. It is noted here that at Col. 10, lines 55- Col 11, line 6, the information from the dataglyph may not be present and the dataglyph may even be absent.

Finally, in Col. 20, beginning at line 48, the tagged encrypted compressed image (TECHBI) is processed using the BI template format against the BI (bit image) to create Tagged Bitmap Image Snippets (TBIS) that are used to form the image snippet derived data record (ISDATA) discussed above. Thus, the human readable information in the snippets is detected by scanning the ticket, and is used to update the TECHBI. In the final processing step, Ballard plainly states that Ballard's ISDATA (Image Snippet Derived Data Record), discussed at Col. 20, lines 56-67, is the source of the transaction data in the fields derived from the ticket or some other document for use in Ballard's database, not the information from the dataglyphs which may or

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may not be present. As discussed below in the summary of Ballard, it is briefly explained that the ISDATA (image snippet derived data record) is simply the data in each field or snippet of a document. By using "snippets," Ballard also describes how only a portion of a document containing an error is sent to an operator who can "quickly recognize and correct the error" Col. 15, lines 51-52; Col.11, lines 1-2. Ballard uses the glyphs to include partitioning or formatting information for a wide range of different documents, which Ballard intends to process to improve human error correction. Ballard hopes to significantly improve the speed of error correction from scanning the human readable portion of the receipts by requiring only that the snippet be sent to the operator for reading and correction so that the operator does not have to look over the entire ticket to locate the error. Col. 15, lines 35-43. **Unlike Appellant, Ballard does not use and does not teach that the information in the dataglyph is utilized for indexing the receipts, as required by Appellant's claims 1 and 16.**

Ballard clearly does not disclose using data read from the Ballard dataglyphs as the basis for organizing the paper receipts for retrieval, as per Appellant's claims 1 and 16. The Examiner not only did not locate this required feature of claims 1 and 16, but the Examiner did not even attempt to do so. Establishing anticipation under 35 U.S.C. §102(b) requires that a single prior art reference contain every element recited in the claim in as complete detail as is contained in the claim.

The Examiner has not established a prima facia case of anticipation because the Examiner has not located two of the required limitations of claims 1 and 16. It is respectfully submitted that the rejection is respectfully traversed. The decision that the claims are anticipated should be reversed.

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Claim 5, 16, 21

Appellant's dependent claim 5 and claim 16 discussed above call for programming that causes the printer to print the machine readable data which, as per claim 1, must include the credit card number, transaction amount, and the date of the transaction. Ballard does not disclose programming for putting this information into the Ballard glyphs. The Examiner does not discuss this limitation either. Respectfully, the decision should be reversed.

Claim 18

Appellant's dependent claim 18 requires that the machine readable data includes a merchant number. The Examiner does not discuss this limitation. Again, the Examiner provides no basis for the rejection.

Ballard discloses obtaining the merchant number with POS (point of sale) equipment, as discussed above. Ballard does not disclose putting this information into the Ballard glyphs and teaches no motivation to do so. The Examiner has Col. 6, lines 15-18; Col. 15, lines 35-65, and specifically Col. 15, lines 48-58. Col. 6, lines 15-18; Col. 15, lines 35-65, and specifically Col. 15, lines 48-58.

II.   Claims 2-4, 7-15, 17, and 19-20 are rejected under 35 U.S.C. 103(a) as being

anticipated by Ballard in view of Cruse (2002/0010659).

Claims 4, 6, 19, 20

1.   **Even in combination, Ballard and Cruse do not show all elements of the base**

claims 1 and 16, and therefore the rejection is traversed.

As discussed above, Ballard does not show that the required information that should be

printed into the machine readable information for indexing and for printing paper receipts.

Ballard also does not show that the machine readable data is used for indexing and retrieving

images of the receipts. Cruse does not cure the infirmities of Ballard.

Cruse does not disclose the required information of claim 1 and 16 in the receipt. In fact,

Cruse does not even teach use of machine readable codes on receipts. Cruse does not disclose

using a bar code on a receipt. Instead, Cruse explains that a bar code that is on the inventory bin.

FIG. 2, items 210B, 220; FIG. 4, item 405 and paragraphs [0029], [0037], [0058], [0083]. The

inventory bin is not a paper receipt. The bar code on the inventory bin could not include date of

purchase or amount of purchase or credit card number or a signature because such details of future

transactions are not known when placing the bar code on the inventory bin before the transaction is

made. If these details were known in advance, then there would be no need for Cruse which is used

to quickly order when the inventory is depleted to a level at which ordering should occur.

When the goods are received, Cruse states that they have a bar code which is scanned. From

this, Cruse says a paper receipt may or may not be generated. [0038] Thus, the bar code disclosed

on the goods by Cruse is not part of a paper receipt. According to this passage, the paper receipt

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does not exist at the time of scanning the bar code, and may never exist. Cruse does not disclose

producing the new receipts with the bar code from the product. Moreover, this information is

already entered into the system so that there is no apparent reason to do so.

In order to establish a prima facie case under 35 U.S.C. 103(a) all the claim limitations must

be taught or suggested by the prior art. The showing must be clear and particular. See, e.g., C.R.

Bard, 157 F.3d at 1352, 48 USPQ2s at 1232. See M.P.E.P. 2143.03.

In this case, the Examiner has not made a clear showing of that the claimed features are

present in base claims 1 and 16 even if Ballard and Cruse are taken in combination. Accordingly,

the rejection to the above claims is in error and the Examiner's decision should be reversed.

Claims 7-15

1.   **Cruse is nonanalogous art. It is directed to an inventory system and has
nothing to do with chargebacks or even with credit card transactions.**

"The determination that a reference is from a nonanalogous art is . . . twofold. (1) First, we

decide if the reference is within the field of the inventor's endeavor. (2) If it is not, we proceed to

determine whether the reference is reasonably pertinent to the particular problem with which the

inventor was involved." *In re Wood*, 202 USPQ 171, 174 (C.C.P.A. 1979) [Numbering added]

Cruse does not satisfy either of these two criteria.

(1) Cruse is an inventory control system. Cruse does not mention the words "credit card."

Cruse is not aware of the problem of credit card chargebacks and provides no teachings about

credit card chargebacks. Cruse is not concerned with producing an image of a receipt showing a

signature. Cruse does not mention the word signature or propose any reason why this would be

necessary. Therefore, Cruse does not satisfy the criteria of being in the field of the inventor's endeavor.

(2) The question remains whether Cruse is reasonably pertinent to the particular problem with which the inventor is involved. On page 4, the Examiner contends in the last paragraph that Cruse is analogous based on paragraph [0061]. In this paragraph, Cruse states that the orders and receipts for inventory purchases may be scanned and transmitted to a database for subsequent viewing. However, Cruse does not explain how the scanned images are categorized. Cruse does not state the scanner creates an image of the orders and receipt and also reads machine readable language thereon. Cruse does not state that the information from the machine readable language is used for indexing the scanned images. In fact, Cruse does not teach use of machine readable codes on receipts. The only use of machine readable data, or bar codes, is on the empty bin for the goods that must be replenished, or on the goods themselves. Cruse does not disclose using a bar code on a receipt. Cruse explains that a bar code that is on the inventory bin. FIG. 2, items 210B, 220; FIG. 4, item 405 and paragraphs [0029], [0037], [0058], [0083]. Accordingly, this is not a paper receipt. The bar code on the inventory bin could not include date of purchase or amount of purchase or credit card number or a signature because such details of future orders are not known before the transaction is made. The bar code is not part of a receipt. When the goods are received, they preferably have a bar code which is scanned. From this, a paper receipt may or may not be generated. Thus, the bar code again is not part of receipt and a paper receipt does not exist at the time of scanning the bar code. [0038]. Cruse shows no details on processing scanned images and apparently does not show anything like Appellant's invention. Cruse does not address the credit card chargeback problem.

Accordingly, Cruse is not (1) in the field of the inventor's endeavor and (2) is not

reasonably pertinent to the particular problem with which the inventor was involved.   Cruse is not

analogous art.

"In the instant application, the Examiner has done little more than cite references to show

that one or more elements or subcombinations thereof, when each is viewed in a vacuum, is known.

. . . Based upon the record before us, we are convinced that the artisan would not have found it

obvious to selectively pick and choose elements or concepts from the various references so as to

arrive at the claimed invention without using the claims as a guide." *Ex parte Clapp*, 227 USPQ

972, 973 (B.P.A.I. 1985). The combination of elements from nonanalogous sources, in a manner

that reconstructs the applicant's invention only with the benefit of hindsight, is insufficient to

present a prima facie case of obviousness.

Accordingly, the decision to reject the claims 7-15, and the any other claims rejected over

Ballard in light of Cruse, should be reversed.

2.   The Examiner's proposed combination of Ballard and Cruse is improper

because (1) Cruse does not teach the element which the Examiner proposes to combine, (2)

the element proposed by the Examiner is already present in Ballard, making the proposed

modification moot, and (3) the use of the element proposed by the Examiner is no longer

found in the claims as presently amended making the rejection inapplicable to the present

claims.

On page 3, last two sentences, the Examiner proposes to modify Ballard to incorporate OCR

as taught by Cruse. The Examiner's rejection provides no other information about the proposed

modification.

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The Examiner states, without support, that Cruse teaches other types of scanners that include OCR in paragraph [0061]. Paragraph [0061] does not discuss OCR. Due to the known high error rate of OCR, there is no reason for Cruse to teach anything about OCR. Cruse does not mention or suggest OCR. In the rejection on page 3, last two sentences, the Examiner states that it "may" include OCR on page 3. Even the Examiner recognizes the element is not actually present in Cruse.

"In order to establish a prima facie case under 35 U.S.C. 103(a) all the claim limitations must be taught or suggested by the prior art. The showing must be clear and particular. See, e.g., C.R. Bard, 157 F.3d at 1352, 48 USPQ2s at 1232. See M.P.E.P. 2143.03."

The Examiner has not made a showing that this element exists in Cruse.

Taking the non-existent element from Cruse, the Examiner then proposes that OCR could be used by Ballard. However, the Examiner fails to grasp that Ballard already uses OCR, and that this is a source of the errors that must be manually corrected as discussed above. Thus, the proposed modification is moot, even if Cruse did teach this element.

Finally, the claims as amended do not call for this element, so there appears to be no reason for the rejection. Even if the rejection were otherwise proper, then there is no explanation as to how the proposed combination somehow teaches the limitations of claims 2-4, 7-15, 17, and 19-20. Accordingly, the rejection is improperly made and is improperly applied. The rejection should be reversed.

Ballard clearly uses OCR (optical character recognition) to read this image data. In fact, when there are errors, the same snippets are also read by human operators to correct the human

readable data in the image of the snippets. The human can read the image in the snippet better than the machine and correct the OCR errors made by the Ballard system in recognizing the text in the snippets. As discussed above, Ballard makes a BI (bit image) of a ticket with the various human readable elements such as amount and data of purchase. A template format is applied against the BI (bit image) to create Tagged Bitmap Image Snippets (TBIS) that are used to form the image snippet derived data record (ISDATA) discussed above. The Image Snippet Derived Data Record, discussed at Col. 20, lines 56-67, is the source of the data in the fields derived from the ticket or some other document.

The Examiner's lack of explanation as to any other basis for making the proposed combination leaves nothing else for Appellant to rebut. However, due to completely different operation and goals of operation, Appellant respectfully submits that modification of Ballard's system in light of Cruse is likely to frustrate rather than improve operation of Ballard's system. See for example the discussion of claims 2 and 17 below.

In any case, the modification of Ballard proposed by the Examiner in light of Cruse is moot. Cruse does not teach the element, and the element is already shown in Ballard. It teaches nothing more than is already present in Ballard. Therefore, the Examiner's decision to reject the claims on this basis should be reversed.

3. Lack of Motivation to Make the Proposed Combination

There is no motivation to combine Ballard with Cruse as required to support a rejection under 35 U.S.C. 103(a). "Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the

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combination. Under section 103, teachings of references can be combined *only* if there is some suggestion or incentive to do so." (quoting *ACS Hosp. Systems, Inc. v. Montefiore Hosp.*, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984)).

There is no motivation to place an element which does not exist (OCR in Cruse) into a system that already includes the element. As discussed directly above, Cruse does not mention or suggest OCR. Ballard already uses OCR.

Even if the proposed modification were not moot, neither Ballard nor Cruse recognize the solution found by Appellant. Ballard does not recognize the problem of completely eliminating paper involved in chargebacks in a manner that results in error free data. Cruse is not even aware of the problem of chargebacks and has nothing to do with credit cards. Given the vacuum of knowledge in the prior art concerning the operation of Appellant's invention for solving the problem defined, and solved only by Appellant, there would be no motivation at the time of the invention for one of skill in the art to combine Ballard with Cruse to provide the elements of Appellant's claimed invention as required to support a rejection under 35 U.S.C. 103(a).

Accordingly, Appellant respectfully submits that the Examiner's decision to reject the Appellant's claims on this basis should be reversed.

4. Factual Inquiries Under Graham v John Deere show the proposed combination would not be obvious to those of skill in the art.

Under M.P.E.P. 2141.01, Scope and Content of the Prior art, Section III entitled "Content of the Prior Art Is Determined at the Time the Invention Was Made to Avoid Hindsight," the Examiner

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should ascertain the state of the prior art prior to the invention. Moreover, the law is clear that nonobviousness of a solution is strongly evidenced when experts in the art have tried and failed to solve long-standing problems, which is exactly the situation in the present case.

Those skilled in the art have long been aware of and have attempted to solve the very expensive problems related to charge backs. Houvener, a previously discussed reference who actually cited to Ballard, was not able to solve the problems in a way that is satisfactory for merchants and customers, or that resolved bottlenecks. With Ballard, there are clearly error problems recognized even by Ballard himself who apparently does not solve the problem of getting rid of paper receipts but requires storing the masses of receipts in a different way that is already done today by using batch receipts. Cruse does not even recognize the problem at all. Cruse has nothing to do with credit card processing. Accordingly, it is beyond the realm of credibility that it would somehow be obvious to one of skill in the art to solve the long-standing, very costly problem confronting merchants and their customers, by combining Ballard with Cruse to provide a solution completely unrecognized by Ballard or Cruse. "It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." (quoting *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988)."

In any case, it is seen in the prior art that many attempts by those of skill in the art were made to solve the problem but the attempts have not been successful. After more than a decade of numerous failed attempts by those of skill in the art to solve a deep-seated and vexing

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problem, long after the computer technology has been available, Appellant's system is the first

to provide a very efficient system that eliminates the problems, reliability, and bottlenecks of

prior art systems.

Given the longstanding and serious nature of the problem, and the previous attempts to

solve the problem, it is abundantly clear that a workable solution in accord with Appellant's

claim language was not obvious to those of skill in the art.   Accordingly, Appellant respectfully

submits that the rejection of claims 7-15 is traversed.

Claims 2 and 17

To the extent the Examiner may have meant to say, but failed to do so, that Ballard

could be modified to use a bar codes as shown by Cruse, so that claims 2 and 17 are obvious,

then the proposed modification would frustrate or prevent operation of Ballard and/or there

is no motivation for the proposed modification.

Ballard utilizes dataglyphs to contain the "large amount of data" needed to provide format

information for the snippets of information in a document. There is no reason to believe that a bar

code could provide this amount of information within a reasonable amount of space. Using a bar

code in Ballard as taught by Cruse instead of a dataglyph would likely frustrate or prevent operation

of the error correction techniques used by Ballard.   Moreover, neither Ballard nor Cruse recognize

that if only a small amount of information is needed as per Appellant's invention, then the bar code

is greatly preferred. Even a very inexpensive 7-pin impact printer in which some pins may be

inoperable will provide sufficient resolution for reliable operation of Appellant's invention. This is

highly important start-up cost advantage of Appellant's invention over any alterative solutions, e.g.

p. 6, line 13- p. 8, line 10, because there is no need for millions of small business owners to modify or replace the inexpensive printer that they are presently using.

Accordingly, in addition to the arguments made regarding claims 4, 6, 7-12, 19, 20 directly above, the rejection is respectfully traversed for these additional reasons as to claims 2 and 17, so that the Examiner's decision should be reversed.

Additional Reasons Claim 3 is allowable

The Examiner states that optical scanning and said reading to produce recognized machine readable data occur at the same location in Ballard in the Office Action (p. 3, beginning of last paragraph). The Examiner's statement is contrary to the teachings of Ballard which calls for a tiered system where different operations take place at different locations.

As shown in Fig. 1, the Ballard system has three tiers of components, 200, 400, and 600. The components 200 are at location where scanning occurs. The components 400 are in a region and collect the information from each store. The component 600 collect the information from each region to do the processing. In other words, contrary to the claim language, the components 200 do the scanning, and the components 600 do the processing of a bit image. Col. 4, line 67- Col. 5, line 15. Col. 14, lines 34-36. The citation by the Examiner concerns only scanning of information to produce a bit image and to determine whether or not the dataglyph is present, not present, or damaged. Col. 10, line 40- Col. 11, line 5.

Accordingly, in addition to the arguments made regarding claims 4, 6-12, 19, 20 directly above, the rejection is respectfully traversed for these additional reasons as to claim 3. Accordingly, it is respectfully submitted that the Examiner's decision should be reversed.

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Summary:

Appellant respectfully submits that the above the above rejections are traversed, and that

the Examiner's decision regarding the rejections should therefore be reversed.

Respectfully submitted,

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CLAIMS APPENDIX (§ 41.37(c)(1)(viii))

1. (Previously Presented) A computer implemented method for processing a plurality of credit card financial transactions by a plurality of purchasers, comprising:

producing a plurality of paper receipts related to said plurality of credit card financial transactions such that each of said plurality of paper receipts comprise machine-readable data and separately located human-readable text which identify each of said plurality of credit card financial transactions, said machine-readable data comprises at least a credit card number, an amount of purchase, and a date of purchase, said human-readable text comprises at least said amount of purchase and said date of purchase, each of said plurality of paper receipts comprises an endorsement by a respective of said plurality of purchasers to confirm each of said plurality of credit card financial transactions;

optically scanning each of said plurality of paper receipts for producing an electronic representation of each of said plurality of paper receipts including said endorsement and for reading said machine-readable data on said paper receipt such that said machine-readable data is recognized; and

electronically storing said electronic representation of said paper receipt utilizing said recognized machine-readable data so as to be organized for said electronic retrieval based on said machine-readable data.

2. (Original)   The method of claim 1, wherein said machine-readable data comprises bar codes.

3. (Previously Presented)   The method of claim 1, wherein said optically scanning and said reading to produce said recognized machine readable data occur at the same location.

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4. (Previously Presented) The method of claim 1, further comprising providing credit card transaction information over the Internet to said plurality of purchasers, said credit card transaction information comprising said electronic representation of said paper receipt.

5. (Previously Presented) The method of claim 1, wherein said step of producing further comprises printing said paper receipt with a printer utilizing programming for providing said machine-readable data and separately positioned human readable data on said paper receipt.

6. (Previously Presented) The method of claim 1, wherein said recognized machine readable data does not comprise said human readable textual after being recognized using optical character recognition (OCR) software.

7. (Previously Presented) A computer implemented method for processing a plurality of credit card financial transactions by a plurality of purchasers, comprising:

producing a plurality of receipts related to said plurality of credit card financial transactions such that each of said plurality of receipts comprises an endorsement by a respective of said plurality of purchasers to confirm each of said plurality of credit card financial transactions;

electronically storing an electronic copy of each of said plurality of receipts, said electronic copy being suitable for producing a purchaser readable copy of a respective of said plurality of receipts; and

providing a web site on the Internet accessible by said plurality of purchasers or agents thereof utilizing a computer at a different location than the location where said credit card financial transaction occurred, said web site providing credit card transaction information regarding transactions made by said plurality of purchasers during a selected time period, said web

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site being operable for providing a viewable copy of said respective of said plurality of receipts for a selectable credit card transaction.

8. (Original) The method of claim 7, wherein each of said plurality of receipts is a paper receipt.

9. (Previously Presented) The method of claim 8, wherein each of said plurality of paper receipts comprises financial transaction data comprising items purchased.

10. (Original) The method of claim 7, wherein said endorsement comprises a signature of each of said plurality of purchasers during a respective of said credit card financial transactions.

11. (Original) The method of claim 7, wherein said endorsement comprises a password known by a respective purchaser.

12. (Previously Presented) A method for processing a plurality of credit card financial transactions by a plurality of purchasers, comprising:

electronically storing receipt data related to said plurality of credit card financial transactions comprising underlying items purchased; and

providing a web site for use via Internet connection accessible by said plurality of purchasers or agents thereof utilizing a computer at a different location than the location where said credit card financial transaction occurred, said web site providing credit card transaction information made by said plurality of purchasers during a selected time period, said web site being operable for providing a viewable copy of a paper receipt endorsed by a respective of said plurality of purchasers for a selectable of said plurality of credit card transactions.

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13. (Cancelled)

14. (Cancelled)

15. (Original) The method of claim 12, wherein said receipt data comprises a password known by a respective purchaser.

16. (Previously Presented) A system for processing a plurality of credit card financial transactions by a plurality of purchasers, comprising:

a printer and programming for producing a paper receipt related to said plurality of credit card financial transactions such that each of said plurality of paper receipts comprises machine-readable data and separately located human- readable text which identify each of said plurality of credit card financial transactions, said machine-readable data comprises at least a credit card number, an amount of purchase, and a date of purchase, said human-readable text comprises at least said amount of purchase and said date of purchase, each of said plurality of paper receipts being endorsed by a respective of said plurality of purchasers to confirm each of said plurality of credit card financial transactions;

an optical scanner for producing an electronic representation of said plurality of paper receipts including said endorsement, said optical scanner being operable for reading said machine-readable data on said paper receipt to produce machine-read data in response to optically scanning said paper receipt;

an electronic storage medium for storing said electronic representation of said paper receipt; and

one or more computers programmed for organizing storage in said electronic storage medium utilizing said machine-read data, said one or more computers being programmed for

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retrieving a selected electronic representation of said paper receipt based on said machine-read data.

17. (Original) The system of claim 16, wherein said machine readable data comprises bar codes.

18. (Previously Presented) The system of claim 16, wherein said machine readable data further comprises a respective merchant number.

19. (Previously Presented) The system of claim 16, wherein said machine-read data does not comprise textual print readable by optical character recognition (OCR) software.

20. (Original) The system of claim 16, further comprising a website to provide credit card transaction information over the Internet to said plurality of purchasers, said credit card transaction information comprising said electronic copy of said paper receipt.

21. (Original) The system of claim 16, wherein said endorsement comprises a signature.

22. (Withdrawn) A system for processing credit card transactions, comprising:

a credit card company responsive to customer inquiries for issuing a chargeback inquiry into a selected purchase;

a merchant, said merchant producing sales;

an electronic database comprising electronic receipts of said sales;

a processor for receiving said chargeback inquiry, said processor being in communication with said database, whereupon said processor retrieves a copy of an electronic receipt for said

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selected purchase from said electronic database and forwards said copy of said electronic receipt to at least one of said credit card company or said customer.

23. (Withdrawn) The system of claim 22, wherein said merchant does not respond to said chargeback inquiry.

24. (Withdrawn) The system of claim 22, wherein each of said copies of said electronic receipts comprises a an electronic copy of a signed receipt.

EVIDENCE APPENDIX (§ 41.37(c)(1)(ix))

None.

RELATED PROCEEDINGS APPENDIX (§ 41.37(c)(1)(x))

None.

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